

## REMARKS/ARGUMENTS

### Amendment to the Claims

Claims 9-19, 21, 23, 28, 30, 36, 37, and 51-54 are currently in the application, and reflect the Examiner's amendment entered with the Notice of Allowance on July 10, 2009.

Claims 9, 14, 19, 28 and 51-54 are amended. Claims 36 and 37 are hereby canceled. New claims 55 - 73 are added.

Claims 9, 14, 19, and 28 are amended to replace the term "inter-muscular" with "intra-muscular". Claim 28 is also amended to provide that the injection end extends outwardly from the base in the second position. Support is found in paragraph [0015].

Claim 19 is also amended to provide that the reservoir is an empty reservoir for receiving and containing a liquid medicament. Express support is found in paragraph [0063].

Claims 51-54 are amended to more particularly define that the base includes a means for attaching the base for semi-permanent attachment to the skin (express support found in paragraph [0046]), and to correct a spelling. Claims 52 and 54 are also amended to change dependency.

New independent Claim 55 is based on original Claim 1 (now canceled), and further provides that the base includes a means for semi-permanent attachment of the device to the skin of the patient (support at paragraph [0046]), and that the means for pumping medicament provides a substantially constant flow rate of from about 0.5  $\mu$ L/s to about 20  $\mu$ L/s (support at paragraph [0060]). New Claim 55 is not identical in scope to any preceding independent claims.

New claims 56-58 depend from new claim 55 and find express support in original claims 2-4.

New independent Claim 59 is based on original Claim 5 (now canceled), and further provides that the base includes a means for semi-permanent attachment of the device to the skin of the patient (support at paragraph [0046]), a means for pumping medicament from the reservoir at a substantially constant flow rate of from about 0.5  $\mu$ L/s to about 20  $\mu$ L/s (support at paragraph [0060]), and a means for retracting the injection needle from its second position to a

third position within the housing (support in original claim 6). New Claim 59 is not identical in scope to any preceding independent claims.

New Claims 60 and 61 depend from new Claim 59 and find express support in original claims 7 and 8.

New independent Claim 62 is also based on original Claim 1 (now canceled), and further provides that the base includes a means for semi-permanent attachment of the device to the skin of the patient (support at paragraph [0046]), that the reservoir is an empty reservoir for receiving and containing a liquid medicament (express support in paragraph [0063]), and that the means for pumping medicament provides a substantially constant flow rate of from about 0.5  $\mu\text{L/s}$  to about 20  $\mu\text{L/s}$  (support at paragraph [0060]). New Claim 62 is not identical in scope to any preceding independent claims.

New Claim 63 depends from new Claim 62 and provides a volumetric flow rate of about 1  $\mu\text{L/s}$  to about 4  $\mu\text{L/s}$  (support at paragraph [0060]).

New Claim 64 depends from new Claim 62 and provides that the injection needle has a size from 30 gauge to 33 gauge (support in paragraph [0058]).

New independent Claim 65 is also based on original Claim 14, and further provides that the reservoir is an empty reservoir for receiving and containing a liquid medicament (express support in paragraph [0063]). New Claim 65 is not identical in scope to any preceding independent claims.

New Claims 66 and 67 depend from new Claim 65 and find express support in original claims 15 and 17.

New claim 68 depends from new claim 65 and provides the injection end of the needle in the second position extends outwardly from the base to a distance sufficient for intramuscular insertion thereof (support in original claim 1, for example).

New claim 69 depends from new claim 65 and provides that the base includes a means for semi-permanent attachment of the device to the skin of the patient (support at paragraph [0046]).

New independent Claim 70 is also based on original Claim 14, and further provides that:

the reservoir is an empty reservoir for receiving and containing a liquid medicament (express support in paragraph [0063]); that the needle has an outside diameter of about 0.36 mm and less (express support in paragraph [0058]); that the injection end in the second position extends outwardly from the base to a distance sufficient for intramuscular insertion (support in original claim 1, for example); that the reservoir is an empty reservoir for receiving and containing a liquid medicament (express support in paragraph [0063]); and that the empty reservoir is in liquid communication with the injection needle (inherent in original Claim 14). New Claim 70 is not identical in scope to any preceding independent claims.

New claims 71 and 72 depend from new claim 70 and find express support in original claims 15 and 17.

New claim 73 depends from new claim 70 and further provides that the base includes a means for semi-permanent attachment of the device to the skin of the patient (support at paragraph [0046]).

No new claims fees are believed due. Applicants have shown that all claim amendments and new claims are fully supported by the specification as originally filed.

#### Filing of an RCE After Notice of Allowance

In the prosecution of the present application, the Examiner presented a Notice of Allowance on July 10, 2009, including an examiner's amendment which is of record. Applicant has presented the RCE and this accompanying preliminary amendment in order to present certain new claims for the Examiner's consideration for allowance that were canceled by Applicant in a prior response, and to present additional new claims based upon the previously allowed claims, which are likewise fully supported by the specification and patentable over the prior art of record.

#### Prosecution of commonly-owned, co-pending patent applications with related subject matter

Applicant updates the following prosecution items to the Examiner in commonly-owned, co-pending patent applications with related subject matter:

1. US Appln. 10/597,991, filed June 7, 2007, (Wall et al), under Final rejection mailed

August 4, 2009, citing Miskinyar (US 5527287), Woehr et al. (US 20030144627), McWethy et al. (US 7004929), Flaherty (US 6,749,587) and Landau (US 6,264,629). An Early Response After Final was filed October 5, 2009.

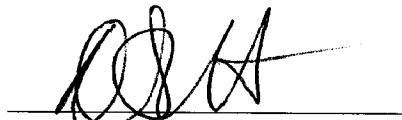
2. US Appln. 10/597,997, filed June 7, 2007, (Wall et al), under Final rejection mailed August 19, 2009, citing McConnell-Montalvo et al (US 6939330), Woehr et al. (US 20030144627), and Hunn et al (US 2004/0158207).

### Conclusion

Applicant requests the Examiner's consideration of the new and amended claims, and a prompt Notice of Allowance.

Respectfully submitted,

By:

  
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